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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN CALFO and JANEZ DEMSAR,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

ROBERT CASSERA, MICHAEL J. GOLDE,
and JOHN P. MESSINA, SR.,

Defendants.

Case No.: 1:15-cv-04010 (LGS)

**~~PROPOSED~~ ORDER GRANTING REQUEST FOR AN AWARD OF ATTORNEYS'
FEES, REIMBURSEMENT OF EXPENSES AND AWARDS FOR LEAD PLAINTIFFS**

WHEREAS:

A. On October 30, 2017, the Court entered a Final Order and Judgment that granted approval of the settlement of this Action as fair, reasonable and adequate;

B. Lead Counsel for the Settlement Class have applied for an award of attorneys' fees of \$550,000.00 plus accrued interest, reimbursement of litigation expenses in the amount of \$176,892.57 to be paid from the Settlement Fund and an award in the amount of \$6,000.00 to Lead Plaintiffs to be paid from the Settlement Fund (\$3,000.00 each to Stephen Calfo and Janez Demsar); and

C. The capitalized terms in this Order have the same meanings as they have in the Stipulation and Agreement of Settlement, dated May 31, 2017.

NOW, THEREFORE, based on the submissions of the parties, the arguments of Lead Counsel at the final fairness hearing held on October 24, 2017, and the entire record in this Action, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Lead Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Award to Lead Plaintiffs is granted. Lead Counsel is awarded attorneys' fees in the amount of 33 1/3% of the Settlement Fund, or \$550,000.00, and awarded reimbursement of litigation expenses in the amount of \$176,892.57. Lead Plaintiffs are granted an award of \$6,000.00.

2. The amount of attorneys' fees awarded is reasonable when considered in light of the factors enumerated in *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 47 (2d Cir. 2000), and as a percentage of the Settlement Fund created for the benefit of the Settlement Class, *see Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 121 (2d Cir. 2005). The *Goldberger* factors include: "(1) the time and labor expended by counsel; (2) the magnitude and complexities

of the litigation; (3) the risk of the litigation . . . ; (4) the quality of the representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.” *Goldberger*, 209 F.3d at 50 (alteration in original). Considering each of these factors, the attorneys’ fees awarded are reasonable. For the percentage of the fund approach, the critical *Goldberger* factor is the relation of the requested fee in relation to the settlement. Empirical evidence shows that, for securities class action settlements between 1996 and 2011, with a gross settlement amount of less than \$5,000,000.00, the median fee award was 33.3% of the settlement fund. Between 2012 and 2016, the median fee award was 30%. NERA Economic Consulting, *Recent Trends in Securities Class Action Litigation: 2016 Full-Year Review* (2017). The attorneys’ fees awarded are therefore reasonable as a percentage of the settlement fund.

3. The amount of attorneys’ fees awarded is also reasonable when measured against Lead Counsel and the Rosen Law Firm P.A.’s (“Rosen Law”) lodestar of \$1,332,857.75 and the 2,288.11 hours expended by the professionals who worked on this matter, as set forth in Exhibits 2 and 3 to the Declaration of Jeremy A. Lieberman, dated September 20, 2017 (“Declaration”). The lodestar is more than twice the amount of fees sought and awarded.

4. The expenses incurred by Lead Counsel and Rosen Law in the amount of \$176,892.57 were appropriately expended to benefit the Settlement Class and are reasonable.

5. A partial payment of the fee award equal to \$275,000.00 and the entire amount of expenses authorized for payment may be disbursed as provided in the Settlement Agreement. The remainder of the fee award shall be disbursed no earlier than the date when at least 90% of the net settlement fund has been paid to class members.

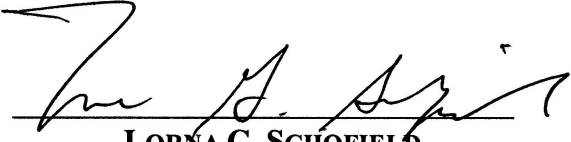
6. Lead Plaintiffs Stephen Calfo Janez Demsar each shall be awarded \$3,000.00 as an award and reimbursement for their lost time in connection with the prosecution of this Action.

These amounts shall be paid to Lead Plaintiffs from the Settlement Fund upon entry of this Order.

The Clerk of Court is directed to close the motion at Docket No. 173.

SO ORDERED.

Dated: October 30, 2017
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE